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8 **THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 MICHAEL PHELPS, individually and on
behalf of others similarly situated,

11
12 Plaintiffs,

13 v.

14 MC COMMUNICATIONS, INC., JOHN
WEHRMAN and ROBERT HAYES,

15 Defendants.
16

CASE NO.: 2:11-cv-00423-PMP-LRL

**STIPULATION AND ORDER
EXTENDING DEADLINES TO
RESPOND TO PENDING MOTIONS**

(SECOND REQUEST)

17
18 **STIPULATION**

19 Plaintiff and Defendants, by and through their respective counsel of record, hereby stipulate
20 and agree as follows:

21 1. On April 4, 2011, Defendants filed their Motion to Dismiss or Stay in Favor of
22 Pending Prior Litigation [Doc. 11]. The original deadline for Plaintiff to respond to this Motion
23 was April 21, 2011, and the parties previously agreed to extend this deadline to April 28, 2011.

24 2. On April 4, 2011, Plaintiff filed his Motion for Circulation of Notice of the
25 Pendency of this Action Pursuant to 29 U.S.C. § 216(b) and for Other Relief [Doc. 12]. The
26 original deadline for Defendants to respond to this Motion was April 21, 2011, and the parties
27 previously agreed to extend this deadline to April 28, 2011.
28

1 3. On April 8, 2011, Plaintiff filed his Motion to Sever and Remand Plaintiff's Claims
2 Under Nevada law to the Eighth Judicial District Court of Nevada [Doc. 14]. The original deadline
3 for Defendants to respond to this Motion was April 25, 2011, and the parties previously agreed to
4 extend this deadline to May 2, 2011.

5 4. The parties agree that they shall each have an additional five (5) business days to
6 prepare their responses to the above-referenced Motions. Accordingly, Plaintiff shall have until
7 May 5, 2011 to respond to Defendants' Motion to Dismiss or Stay in Favor of Pending Prior
8 Litigation [Doc. 11], Defendants shall have until May 5, 2011 to respond to Plaintiff's Motion for
9 Circulation of Notice of the Pendency of this Action Pursuant to 29 U.S.C. § 216(b) and for Other
10 Relief [Doc. 12], and Defendants shall have until May 9, 2011 to respond to Plaintiff's Motion to
11 Sever and Remand Plaintiff's Claims Under Nevada law to the Eighth Judicial District Court of
12 Nevada [Doc. 14].

13 5. The reason for this request is that there is a procedural issue in a potentially related
14 case pending in the United States District Court for the Southern District of California (Case No.
15 3:10-CV-02173-JM(AJB)), on which a decision will likely be reached by plaintiff's counsel in that
16 case shortly. The parties had anticipated that a decision on this issue would have already occurred;
17 however, it is taking longer than anticipated due to the schedules of counsel in the pending
18 California matter. A decision on this issue implicates matters in the pending Motions, and may
19 render portions of certain of those Motions moot. Accordingly, the parties are requesting an
20 additional extension so that they may tailor their briefing to the decision in the pending California
21 matter and its impact on this case.

22 6. This is the second request for an extension of these deadlines made by the parties.

23 7. The parties further agree that in the event that Plaintiff's Motion for Circulation of
24 Notice of the Pendency of this Action Pursuant to 29 U.S.C. § 216(b) and for Other Relief [Doc.
25 12] is granted, and a notice of pendency circulates pursuant to such motion, that any consents filed
26 with the Court under the FLSA in response to such notice of pendency shall be deemed, for FLSA
27 statute of limitations purposes, to have been filed 7 days prior to their actual filing with the Court.
28 This stipulation shall have no impact on the substance of Plaintiff's request that the statute of

1 limitations be tolled for the period of time that Plaintiff's Motion [Doc. 12] is pending, and Plaintiff
2 agrees that Defendants' agreement to the provisions of this paragraph cannot be used in support of
3 any argument he makes for tolling the FLSA's statute of limitations as presented in his Motion
4 [Doc. 12].

5 Dated this 27th day of April 2011.

Dated this 27th day of April 2011.

6
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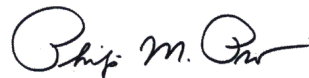
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Attorneys for Defendants

Attorneys for Plaintiff

ORDER

IT IS SO ORDERED.



UNITED STATES DISTRICT JUDGE

DATED: April 28, 2011.

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